



Foreign rule?

Ontario company's fight with China firm has highest of stakes: survival

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By PAUL HERRERA / The Press-Enterprise

Ontario's Apex Digital may be facing the most hostile kind of takeover. Five days after being detained by authorities in China, David Ji, a co-founder of the consumer electronics firm, signed away his company and personal assets to a Chinese firm that was once among the company's largest suppliers, according to court documents filed in Los Angeles.

The firm, Sichuan Changhong, whose main product was cheap televisions sold to U.S. retailers through Apex Digital, says in court papers that the U.S. company racked up \$472 million.

It has presented the documents to a Los Angeles court, asking that it be awarded Apex Digital and Ji's personal assets to cover the debt.

Apex Digital has filed a cross-complaint, seeking at least \$100 million for damage to its business and unspecified further payments for costs related to defending the case and Ji's imprisonment.

Ji, a Chinese-born U.S. citizen, and Anle Hsu founded Apex Digital in 1999. The company built its name on selling consumer electronics at bargain prices through large retailers like Wal-Mart and Best Buy.

By 2003 Apex Digital was the largest seller of DVD players in the country -- it has since fallen to a distant third -- with reported sales approaching \$1 billion.

The company accomplished that with a work force of barely 100 people worldwide, according to its Web site, and a 38,000-square-foot headquarters in Ontario.

Apex Digital, a privately owned company, has said little publicly about its finances or business structure. Even the current conflict remained out of the public eye until Sichuan Changhong publicly blamed Apex for its financial problems more than a month ago.

At that time, Sichuan officials told Chinese media that the company would report its first yearly loss in



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Apex Digital in Ontario is in a legal struggle with the Chinese company Sichuan Changhong, which once was Apex's leading supplier. The Chinese company is suing Apex, claiming that Apex owes Sichuan \$472 million. Apex has filed a cross-complaint.

2004, placing the blame squarely on money owed by Apex.

Earlier reports from Sichuan indicated that Apex had carried similar debt amounts since at least 2002. The company didn't raise alarms about the debt in its better years.

Last year wasn't one of those better years. Sichuan was battered by U.S. tariffs imposed when trade officials believed China was dumping cheap television sets at below-market prices.

In statements to Chinese media, including the state-owned Xinhua News Agency, a spokesman for Sichuan said it has no connection and had no knowledge of the arrest -- despite the company's assertion that it held a 14-hour negotiation with Ji for payment of the debt five days after he was arrested.

According to documents filed by the Chinese firm as well as Apex, Ji was detained at his hotel, the Grand Skylight Hotel in Shenzhen, China, on Oct. 24.

Roy Girasa, a law professor at New York's Pace University specializing in international business, said he couldn't imagine any circumstance in which an American judge would enforce the contracts signed by Ji -- if they were actually signed by him. Apex's lawyers have not conceded that Ji signed the documents.

"The whole thing smells," Girasa said.

"A judge would have to weigh all of these factors. There's no question that (Ji) had no power to liquidate the company and hand it over. There's also a matter of coercion to sign those documents. He's basically imprisoned.

"What's happening here is he's scared out of his mind," Girasa later added. "For significant fraud, the penalty in China is execution."

Ji remains in custody. In court filings, Apex Digital says it has not been able to contact him. Calls to Apex and its attorneys were not returned. Bruce Bennett, attorney for Sichuan Changhong, declined comment.

Usha Haley, professor of management and international business at the University of New Haven and author of "Chinese Tao of Business," said Apex appeared to lose favor with some part of the Chinese power structure that helped build the company in the first place. Apex was one of the companies Haley studied for her book.

Haley said American firms struggle to stay connected with local governments, Communist party leaders and other elements of the Chinese power structure.

"It's like swimming in a river with numerous currents," Haley said.

"It's very difficult to keep abreast of all of them ... the favor of the Chinese government can be very fickle."

Reports that Sichuan, one of China's largest exporters, could be in trouble goes far beyond one company, its shareholders and employees, Haley said. The firm generated 14.1 billion yuan, about half of the home city's funds.

"When the enterprise started going under -- for various reasons, not just Apex, notably declining sales -- they have to find a scapegoat. I think Apex is a scapegoat ... but I don't think Apex is lily white or pure as the driven snow either. There is some murkiness with their business."

In Chinese media accounts, Sichuan has also announced plans to take control of Apex. The mechanism of that takeover is in the documents filed in court in Los Angeles. Ji's assets, including Apex, are set up as a guarantee to pay the debt. The unfolding drama has raised numerous issues of the business and political climate in communist China. In court papers, Apex Digital argues that the majority of the ownership of Sichuan Changhong is government officials -- the same government that arrested Ji and has held him since October.

"That is one of the dangers," said Girasa, the Pace University professor, who says the government-business relationship has also thwarted attempts to enforce intellectual property laws in China.

"Many of the people who are there to enforce the intellectual property law also operate the businesses that profit from breaking it."

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